

## CITY OF ALAMEDA

### Memorandum

To: Honorable Mayor and  
Members of the City Council

From: John A. Russo  
City Manager

Date: December 20, 2011

Re: Introduce an Ordinance Amending Alameda Municipal Code Sections 6-27.4, 6-52.1 and 22-8.1 to Allow Sale of Goods from a Rolling Store with Approval of a Special Event Permit, Conditional Use Permit, or Encroachment Permit; and Adopt Food Truck Program Guidelines, Including Standard Conditions of Approval for a Conditional Use Permit or Encroachment Permit for Rolling Stores

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### BACKGROUND

Cities like Portland, Oregon; Austin, Texas; and San Francisco, California have successfully used attractive and eclectic food trucks and carts to provide interim uses for vacant parcels and to attract people to under-used or under-served commercial neighborhoods. Portland found that food trucks can complement existing businesses by attracting pedestrian traffic with a non-traditional, communal eating experience, where customers may intermingle and interact directly with chefs. A City of Alameda Food Truck Program (Program) also has the potential of revitalizing vacant properties and blighted areas by attracting patrons drawn to new and innovative culinary entrepreneurs in stylized food trucks.

Additionally, a new generation of entrepreneurs is using food trucks and new social and mobile media marketing tools as an inexpensive way to start a restaurant business. These popular roving kitchens allow up-and-coming chefs to enter the marketplace with multiple points of access and a broad range of innovative menus. The result is a thriving food truck business sector, which is part of a larger, long-term trend in high quality, convenient dining. Other examples include Whole Foods Markets offering hot, ready-made meals and restaurants like P.F. Chang's providing curbside take-out service. A City Program could encourage local residents to start new businesses or create an incentive for existing restaurants to expand their operations using food trucks as a mobile annex.

The cities of Berkeley and Oakland have created special weekly, off-street events in revitalizing areas with a regular group of street food vendors congregating at one location. (Berkeley's "Off the Grid" is Wednesdays 5:00 p.m. to 9:00 p.m. at Shattuck Ave at Rose Street and Oakland's "Bits off Broadway," is Fridays 5:30 p.m. to 8:30 p.m. at 365 45<sup>th</sup> Street.) The Alameda Municipal Code (AMC) prohibits "rolling stores" such

as food trucks, except for those selling fruits, vegetables, ice cream, candy, and popcorn.

In 2009, the City issued a conditional use permit for one rolling store, Jon's Street Eats, to promote economic use of a private, underutilized parcel at 2301 Santa Clara Avenue, across from City Hall. This was considered a trial effort and has spurred steady activity during its regularly scheduled hours of operations. This permit would not be approved under the guidelines described below, since it is not in one of the five restricted locations for rolling stores conducting business on private property. Jon's Street Eats will be the only approved conditional use permit for food trucks outside of the five restricted locations.

## DISCUSSION

City staff is proposing changes to the AMC and creating Program Guidelines in order to help the City revitalize vacant and blighted private and public properties, encourage creation and expansion of new businesses, and address the lack of food establishments in certain commercial areas of the city, such as Alameda Point and Harbor Bay Business Park. Providing on-the-spot amenities may also complement and stimulate other economic development initiatives. For example, the City suggested creating a "food trailer court" on vacant and paved areas at Alameda Point in its proposal to attract the Lawrence Berkeley National Laboratory Second Campus (LBNL Second Campus). The food trailer court would increase the number of eating options within a short walking distance of the LBNL Second Campus for employees at lunchtime and contribute to the general appeal of the site.

The following are staff recommendations for the City Council to consider in encouraging a City Food Truck Program:

1. Update the AMC regulations regarding the prohibition of food truck vendors to be consistent with State law;
2. Create Program Guidelines to encourage and support a vibrant business climate in appropriate areas and to regulate food trucks by creating standard conditions of approval to protect the community from noise and litter; and
3. Develop an outreach and implementation strategy for the Program.

The following provides a more detailed discussion of staff's recommendations.

### **1. *Update AMC to Allow Food Trucks***

In addition to appropriate licenses (e.g., Alameda business license, County health permit), staff recommends that a food truck operator or organizer be required to obtain one of three permits to operate a food truck in the City, depending on the location and duration of the proposed use. At the request of the West Alameda Business Association (WABA) and Park Street Business Association (PSBA), permanent or reoccurring food truck uses on private property will be restricted to specific underserved

commercial areas in Alameda. The following describes this three-pronged permitting process:

- A Special Event Permit (SEP) for one-time events or up to three individual events (such as block parties or street festivals occurring on consecutive days) on private property or in the public Right-of-Way;
- A Conditional Use Permit (CUP) for permanent or recurring food truck uses on private property; or an Encroachment Permit (EP) for permanent or recurring food truck uses in the public Right-of-Way. A CUP for permanent or recurring food truck use would be restricted to the following locations: the former Naval Air Station at Alameda Point, the College of Alameda property, the South Shore Shopping Center, and the Marina Village and Harbor Bay Business Parks.

Staff proposes revising the following Sections of the AMC to be consistent with the California Vehicle Code, to encourage food trucks in appropriate locations, and to be consistent with the City's existing practice:

**6-27 Storage, Sale, and Preparation of Food and Beverages**—regulates the sale of any meat, meat food products, seafood, or dressed poultry exclusively to a fixed place of business. Staff recommends changing the Section to allow the sale from rolling stores (e.g., food trucks) with approval of a Special Event Permit, Conditional Use Permit, or Encroachment Permit.

**6-52 Use of Streets and Sidewalks**—bans the use of public streets and sidewalks for the sale of anything other than fresh fruits and vegetables. Staff recommends changing this Section to allow the City to grant a Special Event Permit, Conditional Use Permit or Encroachment Permit for the temporary sale from a rolling store (e.g., food trucks).

**22-8 Rolling Store**—prohibits the use of public streets for the sale of goods, wares, food stuff, or any other type of merchandise from a "rolling store or store on wheels", with the exception of traditional ice cream trucks. Staff recommends allowing the use of public streets for the sale of goods from a rolling store (e.g., food trucks) with the approval of a Special Event Permit, Conditional Use Permit, or an Encroachment Permit.

## ***2. Create Food Truck Program Guidelines***

While the AMC changes discussed above allow food trucks at designated locations pursuant to a permitting process, the Program Guidelines summarized below describe in greater detail how that process will be implemented.

The proposed Program Guidelines, if adopted, will apply to the CUP and EP process for permanent or recurring food truck uses (Exhibit 1). Staff is not recommending any modifications to the Special Event Permit inter-departmental review and approval

process. The Program Guidelines also include standard conditions of approval for a CUP and EP related to food truck uses. The food truck CUP and EP permit applications will require detailed information, such as the location at which the vendor(s) intend to operate; hours of operation; and description of the vehicle(s) with photos, if available, among other standard required information. The CUP and the EP would be valid for one year, with annual renewals subject to administrative review, modification (if necessary), and approval. Applicants will also be required to obtain a City Business License, based on the same classification as restaurants, and must provide proof of insurance, a valid County health permit, and other relevant permits and licenses.

Staff will monitor the Program Guidelines and report back to the Planning Board after the initial year of operation. Staff may recommend future adjustments, as necessary, for Planning Board consideration and approval. All actions of the Planning Board may be appealed to the City Council.

### ***3. Develop an Outreach and Implementation Strategy***

The City has presented the Program Guidelines to the South Shore Shopping Center, the PSBA Board of Directors, WABA Executive Board, the Greater Alameda Business Association (GABA) Board of Directors, and the Economic Development Commission. The City has also reviewed the Program with Legacy Partners (the owners of Marina Village Business Park), GS Management Company (the property managers for the Harbor Bay Business Park), and the Alameda Chamber of Commerce. Their comments are consolidated into the Program Guidelines. The Planning Board, at its November 28 meeting, voted unanimously to recommend the adoption of an ordinance amending the AMC and of the Program Guidelines.

If the City Council approves the AMC changes and Program Guidelines, City staff will then approach local property owners and venues about hosting pilot food truck events at locations such as Alameda Point and Harbor Bay Business Park. The City will coordinate these events with local business organizations and encourage participation by Alameda restaurants.

The City may also consider working with a consulting company like Off the Grid, a San Francisco-based company that specializes in working with existing Alameda restaurants and organizing regular and special food truck events. Off the Grid sponsors weekly food truck "markets" at UN Plaza, Upper Haight, and Fort Mason in San Francisco, Golden Gate Fields in Berkeley, and other locations. In addition to helping organize food truck market events, Off the Grid offers a licensed food truck that may be rented by local restaurant chefs to prepare their own street food. This may be an excellent avenue for local restaurants to test new markets. The rental is available for Off the Grid events and private catering for \$325 for four-hour shifts. This covers gas for the truck and generator, propane, cooking oil for the fryer, and permits. The local restaurant would be responsible for their own food, consumables (plates, napkins, utensils, etc.) and removal of garbage.

Lastly, the City may consider working with the Alameda Small Business Development Center (SBDC) to offer training workshops for starting and operating a food truck. In preliminary discussions with the SBDC, the workshops would be customized for Alameda restaurants that may be interested in expanding their businesses using food trucks as a mobile annex.

#### FINANCIAL IMPACT

The Food Truck Program Guidelines will complement and stimulate economic development initiatives. Fees from the food truck applications and permits will cover administrative costs.

#### MUNICIPAL CODE/POLICY DOCUMENT CROSS REFERENCE

Economic Development Strategic Plan (revised in 2008):

- Strategy #1 Create Industrial and Office Jobs, contains the initiative to "attract more restaurants and other employee amenities closer to business parks."

#### RECOMMENDATION

1. Introduce an Ordinance amending Alameda Municipal Code Sections 6-27.4, 6-52.1 and 22-8.1 to allow sale of goods from a rolling store with approval of a Special Event Permit, Conditional Use Permit, or Encroachment Permit; and
2. Adopt Food Truck Program Guidelines, including Standard Conditions of Approval, for a Conditional Use Permit and Encroachment Permit for rolling stores.

Respectfully submitted,



Lori Taylor  
Community Development Director

By:



Eric Fonstein  
Development Manager

Exhibit:

1. City of Alameda Food Truck Program Guidelines

**City of Alameda  
Food Truck Program Guidelines**



**Community Development Department  
City of Alameda**

**December 20, 2011**

# **City of Alameda**

## **Food Truck Program Guidelines**

### **Introduction**

City of Alameda staff is proposing changes to the Alameda Municipal Code (AMC) and creating Food Truck Program Guidelines in order to help the City revitalize vacant and blighted private properties in commercial areas, encourage new business creation and expansion, and address the lack of food establishments in certain areas of the City, such as Alameda Point and Harbor Bay Business Park. Providing on-the-spot amenities may also compliment and stimulate other economic development initiatives. For example, the City suggested creating a “food trailer court” on vacant and paved areas at Alameda Point in its proposal to attract the Lawrence Berkeley National Laboratory Second Campus (LBNL Second Campus). The food trailer court would increase the amount of eating options within a short walking distance of the LBNL Second Campus for employees at lunchtime and contribute to the general appeal of the site.

### **A. Special Event Permit, Conditional Use Permit, Encroachment Permit**

The AMC changes discussed above will allow food trucks in the City pursuant to a permitting process and consistent with State law. The Program Guidelines outlined in this document describe in detail how that process will be implemented. In addition to appropriate licenses (e.g., Alameda business license, County health permit), a food truck operator or organizer will need to obtain one of three permits to operate a food truck in the City, depending on the location and duration of the proposed use. The following describes this three-prong permitting process:

- A Special Event Permit (SEP) is for one-time events or up to three individual events (such as street festivals occurring on consecutive days) on private property or in the public Right-of-Way;
- A Conditional Use Permit (CUP) is for permanent or recurring food truck uses on private property; or
- An Encroachment Permit (EP) is for permanent or recurring food truck uses in the public Right-of-Way.

While the proposed changes to the AMC would allow food trucks to operate at Special Events, staff is not recommending any modifications to the Special Event Permit inter-departmental review and approval process. This document provides guidelines for the CUP and EP process. An EP for any activities and/or access occurring in the public Right-of-Way will be approved by the Public Works Director.

No notice or hearing is required for a SEP or EP. The CUP requires public notice and hearing. The CUP and the EP would be valid for one (1) year with annual renewals subject to administrative review, modification (if necessary), and approval. A denial of the CUP permit application or revocation of a permit may be appealed to the Planning Board.

## **B. Standard Conditions for Conditional Use Permit and Encroachment Permit for Food Trucks**

The Conditional Use Permit and Encroachment Permit applications for food truck uses will include the following information: a description of the food to be sold; the location at which the vendor(s) intends to operate; hours of operation; and description of the vehicle(s) with photos, if available.

While each application will be evaluated based on its specific circumstances and specific conditions of approval may be required, food truck CUP and EP standard conditions and restrictions will include:

### **1) Location and hours of operation**

- Applicant may only conduct business between the hours of 6:00 a.m. and midnight.
- Applicant will operated exclusively from the location and for the time periods designated on the permit.
- Applicant may not conduct business within one block of any public or private elementary or middle school grounds on days that the school is open between the hours of 7:00 a.m. and 5:00 p.m.

### **2) Amplified sound.**

- Generally, amplified sound is not allowed, except pursuant to a special permit issued by the Community Development Department.
- The Applicant must be compliant with the City's noise ordinances.

### **3) Lighting.**

- Adequate lighting will be provided to ensure customer safety.
- Lighting will be directed downwards and away from public streets and adjacent properties.

### **4) Packaging and solid waste.**

- Applicant must ensure that no pollutants, including food waste/grease, liquid wastes, garbage/debris, and other materials are discharged to the City's storm drain system (including gutters, curbs, and storm drains).
- Applicant will be required to pick up, remove, and dispose of all garbage, refuse or litter consisting of foodstuffs, wrappers, and/or materials dispensed from the vending vehicle and any residue deposited on the street from the operation thereof, and otherwise maintain in a clean and



debris-free condition the entire area within a 25-foot radius of the location where mobile food vending is occurring.

- Applicant will use best management practices and dry methods of cleaning to prevent accumulation or discharge of any materials to the City's storm drain system (including gutters, curbs, and storm drains).
- Applicant shall ensure that any wash water from surface cleaning activities shall be collected and discharged to the sanitary sewer system and shall implement surface cleaning best management practices described in the Bay Area Stormwater Management Agencies Association (BASMAA) "Pollution From Surface Cleaning" guidance document.
- Applicant shall provide sufficient garbage, recycling and organic collection receptacles during its operation. All receptacles shall be removed prior to leaving the site. Use of City waste receptacles is prohibited.
- Applicant shall not provide prepared food to customers in disposable food service ware that uses polystyrene foam.

5) Allowable days.

- There may be particular days or special events during which food trucks are prohibited to operate.
- Applications must be for specific days of the week.

6) Proof of permits and fees.

- Applicant must obtain a City Business License, based on same classification as restaurants.
- Applicant must provide proof of insurance and valid CA drivers license.
- Applicant must provide proof of a valid health permit from the County enforcement agency.
- Applicant is required to obtain a hazardous materials permit when quantities of propane are equal to or exceed ten (10) gallons.

7) Site requirements for off-street locations.

- Application must specify and be limited to a specific address at which vending of food will occur.
- Applicant must be stationary for a minimum of two (2) hours. No trolling allowed.

- Applicants will be required to provide proof of agreement from the property owner.
- The City will consider site-specific conditions in the granting of a permit for off-street food truck vending, which may include the following: number of trucks and patron capacity, signage, noise, parking, provision of bike parking and other amenities where appropriate, lighting, security, and frequency of the event.

8) Site requirements for on-street location.

- If a Certified Farmers Market, certificate holder or event organizer is responsible for obtaining a business license and one permit for all food vendors, the application will identify the number and types of vendors operating within the market.
- Applicant may only conduct business from a licensed vehicle or licensed trailer on a public street while parked in a legal parking space.
- Applicant will at all times operate in compliance with the California Vehicle Code, the AMC, and with all posted parking, stopping, and standing restrictions.
- Applicant will not encroach on a public sidewalk or curb with any part of a vehicle, wagon, trailer or truck or any other equipment related to the operation of the business.
- Applicant may only conduct business on a street with a curb-to-curb width no less than 32-feet.
- Applicant may only conduct business at least 50 feet from a crosswalk and at least 25 feet from a driveway.
- Applicant may only conduct business when parked next to an unobstructed sidewalk of five feet or more in width.

9) Condition and appearance of site.

- City will have the discretion to require tables, chairs, or other site furniture if sufficient space is available to accommodate diners and pedestrian access.
- No portable A-frame signs will be permitted on the site.

10) Revocation.

- The CUP may be modified or revoked by the Zoning Administrator, pursuant to Alameda Municipal Code Section 30-21.3d should the Zoning Administrator determine that: 1) the use or conditions under which it is being operated or maintained is detrimental to the public health, welfare, or materially injurious to property or improvements in the vicinity; 2) the property is operated or maintained so as to constitute a public nuisance; or 3) the use is operated in violation of the conditions of the CUP.
- The EP may be modified or revoked by the Director of Public Works.

11) Renewal process.

- The CUP and the EP would be valid for one (1) year with annual renewals subject to administrative review, modification (if necessary), and approval. The Applicant may apply for a renewal, not to exceed one (1) year, and must be filed prior to the date of expiration. Renewal of the permit may depend upon additional restrictions to address public safety, traffic circulation, or other relevant issues reviewed at the time of renewal.

12) Indemnification

- The Applicant shall defend (with counsel reasonably acceptable to the City), indemnify, and hold harmless the City of Alameda, its Redevelopment Agency, the Alameda City Planning Board and their respective agents, officers, and employees from any claim, action, or proceeding (including legal costs and attorney's fees) against the City of Alameda, Alameda Redevelopment Agency, Alameda City Planning Board, and their respective agents, officers, or employees to attack, set aside, void or annul, an approval by the City of Alameda, the Community Development Department, Alameda City Planning Board, the City of Alameda Redevelopment Agency, or City Council related to this project. The City shall promptly notify the Applicant of any claim, action, or proceeding and the City shall cooperate in such defense. The City may elect, in its sole discretion, to participate in the defense of said claim, action, or proceeding.

CITY OF ALAMEDA ORDINANCE NO. \_\_\_\_\_

AMENDING SECTIONS 6-27.4, 6-52.1, AND 22-8.1 OF THE ALAMEDA  
MUNICIPAL CODE TO ALLOW SALE OF GOODS FROM A ROLLING STORE  
WITH APPROVAL OF A SPECIAL EVENT PERMIT, CONDITIONAL USE  
PERMIT, OR ENCROACHMENT PERMIT

Approved as to Form

City Attorney

WHEREAS, Cities around the country including Portland, Oregon, Austin, Texas, and San Francisco, California have successfully used attractive and eclectic food trucks and carts to provide interim uses for vacant parcels and to attract people to underutilized commercial neighborhoods; and

WHEREAS, the City of Portland's experience has demonstrated that food trucks can attract pedestrian traffic with a non-traditional, communal eating experience where customers may intermingle and interact with chefs directly; and

WHEREAS, food trucks may help create amenities for underserved commercial areas, such as Alameda Point and Harbor Bay Business Park; and

WHEREAS, having a food truck program in Alameda has the potential of revitalizing vacant properties and blighted areas by attracting patrons; and

WHEREAS, a new generation of entrepreneurs is using food trucks and new social and mobile media marketing tools as an inexpensive way to start restaurants; and

WHEREAS, food trucks allow up-and-coming chefs to enter the marketplace with multiple points of access and a broad range of innovative menus; and

WHEREAS, the thriving food truck business sector is part of a larger, long-term trend in providing high quality, convenient dining; and

WHEREAS, there are certain barriers in Alameda's Municipal Code that need to be removed to encourage food trucks in appropriate locations and to be consistent with the City's existing practices.

BE IT ORDAINED by the City Council of the City of Alameda:

Section 1. SECTION 6-27.4 of the Alameda Municipal Code is hereby amended to read as follows:

#### 6-27.4 – Fixed Place of Business Required.

It shall be unlawful to peddle by hand or from a vehicle, or sell from other than a fixed place of business, any meat, meat food products, seafood or dressed poultry except that such activities may be allowed from a rolling store with approval of a Conditional Use Permit at the following locations: the former Naval Air Station at Alameda Point, the College of Alameda property, the South Shore Shopping Center, and the Marina Village and Harbor Bay Business Parks; or with the approval of a Special Event Permit or Encroachment Permit.

Section 6-52.1 of the Alameda Municipal Code is hereby amended to read as follows:

Section 2. Section 6-52.1 – Sale or Display of Merchandise on Streets or Sidewalks Prohibited.

It shall be unlawful for any person, firm, company or association to use any portion of any of the public streets or sidewalks in the City for selling or dispensing any kind of goods, wares or merchandise, and it shall be unlawful to use the public streets for any purpose other than the passage or repassage of people or vehicles, except the peddling of fresh fruit and vegetables mentioned in subsection 22-8.2, providing the peddlers thereof keep moving from place to place and do not confine their peddling to one (1) particular locality. The use or occupation of the public streets or sidewalks for exhibiting or displaying vehicles or other property for rent or sale, or for assembling, constructing or repairing vehicles or other property, shall constitute a violation of this section; provided any person may make emergency repairs to a vehicle on the streets in case of accident or a breakdown to such a vehicle while traveling thereon. Nothing herein shall be deemed to prohibit the City from allowing, through approval of a conditional use permit or encroachment permit, the temporary closing of a portion of any street or sidewalk during building construction, or allowing the temporary permission to storekeepers to use a portion of the sidewalk in front of their premises for the exhibition or sale of goods, wares, or other classes of merchandise, or prevent the City from granting an encroachment permit, special event permit, or conditional use permit for the temporary sale of food from a rolling store.

A license to do peddling in the City shall not entitle the holder therefore to occupy any particular place on any street or sidewalk of the City for any definite period, but such licensee must keep moving along the street from place to place, unless the license is accompanied by a Special Event Permit, Conditional Use Permit, or Encroachment Permit for a rolling store.

Section 3. SECTION 22-8.1 of the Alameda Municipal Code is hereby amended to read as follows:

22-8.1 – Use of Street for Sale of Goods from Rolling Store.

It shall be unlawful for any person to use any of the public streets of the City for the purposes of vending goods, wares, food stuffs or any other class of merchandise from a rolling store or store on wheels, unless the activity has been approved by a Conditional Use Permit at the following locations: the former Naval Air Station at Alameda Point, the College of Alameda property, the South Shore Shopping Center, and the Marina Village and Harbor Bay Business Parks; or has been approved by a Special Event Permit or Encroachment Permit.

Section 4. This Ordinance shall be in full force and effect from and after the expiration of thirty (30) days from the date of its final passage.

Section 5. Severability Clause: It is the declared intent of the City Council that if any section, subsection, sentence, clause, phrase, or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

\_\_\_\_\_  
Presiding Officer of the Council

Attest:

\_\_\_\_\_  
Lara Weisiger, City Clerk  
City of Alameda

\* \* \* \* \*

I, the undersigned, hereby certify that the foregoing Ordinance was duly and regularly adopted and passed by Council of the City of Alameda in regular meeting assembled on the \_\_\_\_\_ day of \_\_\_\_\_, 2011, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

IN WITNESS, WHEREOF, I have hereunto set my hand and affixed the official seal of said City this \_\_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Lara Weisiger, City Clerk  
City of Alameda